

House Bill 933

By: Representatives Bordeaux of the 162nd and Loudermilk of the 14th

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change the penalties for a third violation of the crime of driving under the influence within ten years; to provide for an effective date and applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-6-391, relating to driving under the influence of alcohol, drugs, or other intoxicating substances, penalties, publication of notice of conviction for persons convicted for second time, and endangering a child, by striking the introductory paragraph and paragraph (3) of subsection (c) of said Code section and inserting in their places the following:

"(c) Every person convicted of violating this Code section shall, upon a first or second conviction thereof, be guilty of a misdemeanor and, upon a third or subsequent conviction thereof, be guilty of a ~~high and aggravated misdemeanor~~ felony and shall be punished as follows:"

"(3) For the third or subsequent conviction within a ~~five-year~~ ten-year period of time, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted:

(A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall not, except as provided in subsection (g) of this Code section, be subject to suspension, stay, or probation;

(B) A mandatory period of imprisonment of not less than ~~120 days nor more than 12 months~~ one year nor more than five years. The judge shall probate at least a portion of such term of imprisonment, in accordance with subparagraph (F) of this paragraph,

1 thereby subjecting the offender to the provisions of Article 7 of Chapter 8 of Title 42
2 and to such other terms and conditions as the judge may impose; provided, however,
3 that the offender shall be required to serve not less than 15 days of actual incarceration;
4 (C) Not less than 30 days of community service;
5 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by
6 the Department of Human Resources. The sponsor of any such program shall provide
7 written notice of such approval to the person upon enrollment in the program;
8 (E) Undergoing a clinical evaluation as defined in Code Section 40-5-1 and, if
9 indicated by such evaluation, completion of a substance abuse treatment program as
10 defined in Code Section 40-5-1; and
11 (F) A period of probation of 12 months less any days during which the defendant is
12 actually incarcerated."

13 **SECTION 2.**

14 This Act shall become effective July 1, 2005, and shall apply where a third or subsequent
15 offense is committed on or after that date notwithstanding the fact that one or more of the
16 prior offenses was committed prior to that date.

17 **SECTION 3.**

18 All laws and parts of laws in conflict with this Act are repealed.